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7	Facsimile: (916) 327-8643 Attorneys for Complainant	
8	v.	
9	BEFORE T	· EHE
10	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS	
11	STATE OF CALL	
12		
13	In the Matter of the Accusation Against:	Case No. 2011-232
14		ACCUSATION
15	LAURA MAY O'BRIEN aka LAURA O'BRIEN	ACCUBATION
16	aka LAURA ROA aka LAURA MAY CANNON	
	P.O. Box 684	<b>1</b>
17	Oregon House, California 95962	
18	Registered Nurse License No. 421367 Nurse Practitioner Certificate No. 6263	
19	Nurse Practitioner Furnishing No. 6263	
20	Respondent.	
21	Louise R. Bailey, M.Ed., RN ("Complainant") alleges:	
22	PARTIES	
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25	Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer	
26	Affairs.	
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## Registered Nurse License No. 421367

2. On or about January 1, 1988, the Board issued Registered Nurse License Number 421367 to Laura May O'Brien, also known as Laura O'Brien, Laura Roa, and Laura May Cannon ("Respondent"). The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

#### Nurse Practitioner Certificate No. 6263

3. On or about September 18, 1992, the Board issued Nurse Practitioner Certificate Number 6263 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

# Nurse Practitioner Furnishing No. 6263

4. On or about December 6, 1993, the Board issued Nurse Practitioner Furnishing Number 6263 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

### **JURISDICTION**

- 5. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 6. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

# STATUTORY PROVISIONS

7. Code section 2761(a) states, in pertinent part, that the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

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8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022."
  - 9. Code section 4059(a) states:

A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

#### **COST RECOVERY**

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### DRUGS

- 11. "Phentermine," is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(f)(2).
- 12. "Nuva Ring" is a dangerous drug within the meaning of Business and Professions Code section 4022, in that it requires a prescription under federal law.

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#### **BACKGROUND INFORMATION**

Health Medical Clinic ("Harmony"), located in Marysville, California, as a furnishing nurse practitioner. While employed at Harmony, Respondent was given a prescription pad containing blank prescriptions. Some of the blank prescriptions had been signed by treating physicians, Fonda Shaw, NPF ("Shaw"), and Roger Hicks, M.D. ("Hicks"), who worked at Harmony. On or about March 9, 2007, when Respondent left her employment with Harmony, she took the blank prescription pad. Respondent then used the prescription pad and wrote prescriptions for Phentermine and Nuva Ring. Respondent forged Shaw and Hicks' signatures on the prescriptions.

#### FIRST CAUSE FOR DISCIPLINE

(Prescribed, Obtained, Possessed, and Self-Administered a Controlled Substance)

- 14. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(a), in that between February 12, 2007, and June 25, 2008, while a nurse practitioner, Respondent did the following:
- a. Respondent obtained Phentermine, a controlled substance, without a lawful prescription in violation of Health and Safety Code section 11170. Respondent used the blank prescription pad from Harmony to write a prescription and forged the signatures of Shaw and Hicks.
- b. Respondent obtained Phentermine, a controlled substance, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in violation of Health and Safety Code section 11173(a) by forging the signatures of Shaw and Hicks on prescriptions; having the prescriptions filled, and taking the Phentermine for personal use.
- c. Respondent illegally possessed Phentermine, a controlled substance, in violation of Code section 4060, because she did not have a lawful prescription.
- d. Respondent self-administered Phentermine, a controlled substance, without direction from a licensed physician and surgeon, dentist or podiatrist.

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#### SECOND CAUSE FOR DISCIPLINE

# (Prescribed and Self-Administered a Dangerous Drug)

- 15. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(a). Between January 11, 2007 and September 19, 2007, while a nurse practitioner, Respondent did the following:
- a. Respondent wrote a prescription for Nuva Ring, a dangerous drug, in violation of Code section 4059(a), by using a blank prescription pad from Harmony and forging the signatures of Shaw and Hicks.
- b. Respondent self-administered Nuva Ring, a dangerous drug, without direction from a licensed physician and surgeon, dentist or podiatrist.

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 421367, issued to Laura May O'Brien, also known as Laura O'Brien, Laura Roa, and Laura May Cannon;
- 2. Revoking or suspending Nurse Practitioner Certificate Number 6263, issued to Laura May O'Brien, also known as Laura O'Brien, Laura Roa, and Laura May Cannon;
- 3. Revoking or suspending Nurse Practitioner Furnishing Number 6263, issued to Laura May O'Brien, also known as Laura O'Brien, Laura Roa, and Laura May Cannon;
- 4. Ordering Laura May O'Brien, also known as Laura O'Brien, Laura Roa, and Laura May Cannon to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
  - 5. Taking such other and further action as deemed necessary and proper.

DATED: 9/13/10

LOUISE R. BAILEY, M.ED., RN

Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs

State of California Complainant

SA2009103250 (4/20/2010)